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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/448,617	11/23/1999	DALE E. OLSEN	1416-FBI	5242

7590 04/28/2004  
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EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 04/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/448,617

Applicant(s)

OLSEN, DALE E.

Examiner

Kathleen M Christman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02/04/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16, 22-37, 43, 49, 50, 52 and 60-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 22-37, 43, 49, 50, 52 and 60-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

In response to amendment filed 02/04/2004, claims 1-16, 22-37, 43, 49, 50, 52 and 60-65 are currently pending.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/04/2004 has been entered.

#### ***Drawings***

2. This application lacks formal drawings. Formal drawings including the changes required by the draftsmen on form PTO-948 (part of the office action mailed 07/31/2001) are required in response to this office action. This requirement will not be held in abeyance.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-16, 22-37, 49, 50, 52 and 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al (US 5864844) in view of Best (US 5358259) further in view of Kawamoto et al (US 5367454). James et al discloses an interactive apparatus, which includes a plurality of video vignettes and audio responses, a plurality of statements to be selected by the user and logic means for relating each of the statements to be selected by the user with the audio responses and video vignettes. In particular the James et al patent discloses a system in which a plurality of possible statement options are given to the user, each of the statements is related to a response that is constructed of a series of prerecorded audio and video samples, see col. 6: 46-col. 7:47. The computer has a logic program referred to by James et al as the inference engine. Regarding claims 2, the personality profile of applicant's invention can again be interpreted as the "inference engine" disclosed by James et al. The inference engine receives the queries selected by the user and responds with a proper audio and video response. Claims 14 and 15 relate in scope to claims 1 and 2, respectively, and are rejected for the same reasons. Regarding claims 4-6, these claims are directed to providing selections to the user based on prior selections made by the user. Specific to claims 6, the broadest in scope, James et al discloses that a user will receive further questions that can be asked based on the prior series of questions in col. 11: 42-61. Similarly this applies to claims 4 and 5, which allow for alternative statements based on prior history of either audio or video, respectively. As the system interface of James et al uses both previously selected audio and video in its decision it would be obvious to one of ordinary skill in the art to separate this requirement. Claims 9 and 10 are similar in scope and are rejected for the same reasons. Regarding claim 43, the physical structure of the system that the James et al system may be run on is shown in col. 5: 7-23, under the heading "computer system".

James et al does not clearly describe that each statement can have a "plurality of different audio responses and video vignettes associated" with it. This is essentially allowing for multiple responses to the same question or scene. Best teaches this concept in col. 5: 49-57. In addition Best teaches the

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benefits of this feature in a system, including making the game more interesting and that it provides a more emotional and realistic environment for the user. Given these reasons it would have been obvious to one of ordinary skill in the art to provide multiple answer possibilities to a single question in the James et al system.

Neither James et al nor Best teaches the limitation of a personality profile emulator comprising an emotional model of said simulated person for controlling the selection of one of said plurality of audio responses and one of said plurality of video responses to user selected ones of said plurality of statements, as in claims 1, 14, 43 and 61-63. Kawamoto et teaches a personality profile emulator including an emotional model, said emotional model determining the direction and magnitude of change between a plurality of emotional states of the simulated person in response to a statement made by the user, see col. 2: 13-22, col. 5: 11-17, 38-41 and 47-53. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement emotional model of Kawamoto into the systems of either Best et al or James et al, so as to create a more realistic and diverse training environment, an advantage taught by Kawamoto et al in col. 1: 65-68.

Claims 22, 23, 25-27, 30, and 31 correspond to claims 1, 2, 4-6, 9, and 10 above, and thus there are rejected for the same reasons as shown above, and claim 50 is dependent on claim 14, adding the limitation that the questions from the user must be spoken by the user. James et al provides for a microphone in the computer structure of the system implying that there may be verbal inputs but does not clearly state that the inputs are verbalized. Kawamoto et al teaches an interactive system in which the user must verbalize their responses, see Fig. 2 element 211.

Claims 35 and 36 correspond in scope to claims 22 and 23 and are rejected for the same reasons. Regarding claims 49 and 52, James et al does not specifically show that the system is voice activated. See the above cited section of Kawamoto et al.

Regarding claims 7, 8, 12, 13, 28, 29, 33, and 34, neither James et al, Best, or Kawamoto directly teaches that a "performance score" is created. However, both systems are design to teach the user about interpersonal relationships. Scoring a user in the skill or skills they are developing is old and well

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known in the art. It would therefore be obvious to include this well-known feature into either of the systems.

Regarding claims 3, 16, 24, and 37, James et al does not specifically disclose that a response from the simulated person will be associated with the failure of a user to respond. Kawamoto et al teaches the in col. 4: 35-39 and col. 6: 13-19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the prompts in to the James et al and Best systems so that an unfamiliar user would be able to realize when they were being requested to input an answer.

4. Claims 60, 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harless (US 5730603) in view of Best (US 5358259) further in view of Kawamoto et al (US 5367454). Harless clearly shows a system, method and computer readable medium which includes simulating a person, creating a plurality of statements to be verbalized by a user, creating means for recognizing the verbalized statement, creating a plurality of audio responses for articulation by the simulated person, creating logic means for interrelating each of said audio responses, said simulated person, and said statements to be verbalized by the user, see Figures 1, 4, 5 and 6.

Harless do not clearly describe that each statement can have a "plurality of different audio responses and video vignettes associated" with it. This is essentially allowing for multiple responses to the same question or scene. Best teaches this concept in col. 5: 49-57. In addition Best teaches the benefits of this feature in a system, including making the game more interesting and that it provides a more emotional and realistic environment for the user. Given these reasons it would have been obvious to one of ordinary skill in the art to provide multiple answer possibilities to a single question within the Harless system.

Neither Harless nor Best teaches the limitation of a personality profile emulator comprising an emotional model of said simulated person for controlling the selection of one of said plurality of audio responses and one of said plurality of video responses to user selected ones of said plurality of statements, as in claims 1, 14, 43 and 61-63. Kawamoto et al teaches the in col. 4: 35-39 and col. 6: 13-19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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incorporate the prompts in to the James et al and Best systems so that an unfamiliar user would be able to realize when they were being requested to input an answer.

***Response to Arguments***


5. The previous rejections under 35 USC §103(a) over various combinations of Best, James et al, Harless et al and Knight are withdrawn in view of the applicants amendments and remarks filed 02/04/2004.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703) 308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Kathleen M. Christman

  
Teresa Walberg  
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